

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
TARASIK ABDELL, *et al.*

Plaintiffs,

**NOTICE OF MOTION TO
FILE THIRD AMENDED
COMPLAINT**

-against-

05 Civ. 8453 (KMK)(JCF)

THE CITY OF NEW YORK, *et al.*,

ECF Case

Defendants.
-----X

PLEASE TAKE NOTICE that plaintiffs move before the Honorable Magistrate Judge James C. Francis, IV of this Court, at the United States Courthouse, 500 Pearl Street, New York, New York, for an Order granting plaintiffs leave to file a Third Amended Complaint adding: (1) individual defendants responsible for violations of the plaintiffs' civil rights; (2) claims that THE CITY OF NEW YORK had policies, practices, customs and usages which were a direct and proximate cause of the unconstitutional conduct alleged by plaintiffs, to wit, (a) enforcement of an unconstitutional statute, Penal Law section 240.20(5), Disorderly Conduct (obstructing pedestrian traffic); (b) the application of the Disorderly Conduct statute, subsection 5, to sidewalk marches; (c) not issuing summonses to RNC arrestees; (d) not issuing Desk Appearance Tickets to RNC arrestees; (d) the fingerprinting of all RNC arrestees; and (e) making false statements concerning RNC arrestees and the circumstances of their arrests in police documents, to Assistant District Attorneys, in sworn Criminal Court charging instruments, and at criminal trials; (3) a claim that N.Y.C. Admin. Code § 10-110 (Parading Without a Permit) is unconstitutional on its face; (4) a claim that N.Y. Penal Law § 240.20(5) (Disorderly Conduct) is

unconstitutional on its face; (5) claims under 42 U.S.C. §§ 1981 & 1983 for individual supervisory liability of named defendants; and (6) a request for injunctive relief (a) requiring defendants to return to plaintiffs or destroy fingerprint and arrest records concerning their RNC arrests and to request all law enforcement agencies that have received that information to destroy it, (b) prohibiting defendants from requiring a permit pursuant to New York City Administrative Code section 10.110, Parading without a Permit, for persons who seek to walk on a public sidewalk for the purpose of peaceful protest, and (c) prohibiting defendants from enforcing the Disorderly Conduct Statute, subsection 5, against persons gathering on a public sidewalk without either giving a lawful dispersal order or having probable cause to believe that such persons intend to substantially obstruct pedestrian traffic.

PLEASE TAKE FURTHER NOTICE, that in support of the within motion, the plaintiffs rely upon the attached Memorandum of Law in Support of Motion for Leave to File Amended Complaints, including the proposed Third Amended Complaint herein.

Dated: New York, New York
August 30, 2007

/s/
MICHAEL L. SPIEGEL, Esq.
(MS-0856)
111 Broadway, Suite 1305
New York, New York 10006
(212) 587-8558
Attorney for Plaintiffs

TO: JEFFREY A. DOUGHERTY, ESQ.
Assistant Corporation Counsel of the
City of New York
100 Church Street
New York, New York 10007
Attorney for Defendants